

**ORDINANCE NO**

**MUNICIPAL INCOME TAX**

**FOR THE VILLAGE OF COVINGTON, OHIO**

**TAX RATE 1 ½ %**

**EFFECTIVE: JANUARY 1, 2011**

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## **INCOME TAX ORDINANCE**

**Levying a tax to provide funds for the purposes of general municipal operation, maintenance of equipment, extension, enlargement and improvement of municipal services and facilities and capital improvements, on all qualifying wages, commissions, and other compensations earned or received by residents of this Municipality; on all salaries, qualifying wages, commissions, and other compensation earned by non-residents of this Municipality; for work done or services performed or rendered in this Municipality; on the net profits earned on all businesses, professions, or other activities conducted by residents of this Municipality; on the net profits earned on all businesses, professions or other activities conducted in this municipality by non-residents, and on the net profits earned by all corporations doing business in this Municipality as the result of work done or services performed or rendered in this Municipality; requiring the filing of returns and furnishing of information by employers and all those subject to said tax; imposing on employers the duty of collecting the tax at the source and paying the same to this Municipality; providing for the administration, collection and enforcement of said tax; declaring violation thereof to be a misdemeanor and imposing penalties therefore.**

**BE IT ORDAINED** by the Council of the Village of Covington, State of Ohio, that:

### **SECTION 1. PURPOSE**

To provide funds for municipal purposes there shall be and is hereby levied a tax on salaries, qualifying wages, commissions and other compensation, and on net profits and other taxable income as hereinafter provided.

### **SECTION 2 DEFINITIONS**

As used in this Ordinance, the following words shall have the meaning ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning.

**ADJUSTED FEDERAL TAXABLE INCOME** means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute adjusted federal taxable income as if the pass-through entity was a C corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code section 5745.03 or to the net profit from a sole proprietorship.

**ASSOCIATION** means a partnership, limited partnership, limited liability company (including a single owner LLC), Chapter S corporation as defined in the federal tax code, 26 U.S.C. 1361, or any other form of unincorporated enterprise owned by two or more persons.

**THE BOARD** means the Board of Review provided for in Section 13 of this Ordinance.

**BUSINESS** means an enterprise, cooperative, activity, profession, or undertaking of any nature conducted for profit, whether by an individual, partnership, association, corporation, or any other entity. The ordinary administration of a descendant's estate by the executor or administrator, and the mere custody, supervision, and management of trust property under passive trust, whether intervivos or testamentary, unaccompanied by the actual operation of a business, as herein described, shall not be construed as the operation of a business.

**BUSINESS ALLOCATION** as used in these regulations, means the portion of net profits to be allocated to the Village of Covington, as having been made in Covington, either under separate accounting method, or under the three factor formula of property, payroll, and sales, provided for in Section 3 of the ordinance.

**CALENDAR DAY** means any part of any calendar day.

**CORPORATION** means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country, or dependency.

**DISREGARDED ENTITY** means an entity that, for its taxable year, is by default, or has elected to be, disregarded as an entity separate from its owner pursuant to 26 C.F. R. 301.7701-3.

**DOMICILE** means a permanent legal residence of a tax payer. A taxpayer may have more than one residence, but not more than one domicile.

**EMPLOYEE** means one who works for wages, salary, commission, or other type of compensation in the service of an employer. Any person upon whom an employer is required to withhold for either federal income or social security, or on whose account payments are made under the Ohio Workmen's Compensation law shall prima facie be an employee.

**EMPLOYER** means an individual, partnership, association, corporation (including a corporation not-for-profit), governmental agency, board, body, bureau, department, subdivision or unit, or any other entity; who or that employ one or more persons on a salary, wage, commission, or other compensation basis, whether or not such employer is engaged in business. It does not include a person who employs only domestic help for such person's private residence.

**FISCAL YEAR** means an accounting period of twelve (12) months or less ending on any day other than December 31<sup>st</sup>. Only fiscal years accepted by the Internal Revenue Service for federal income tax purposes may be used for Covington tax purposes.

**FORM 2106** means the Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

**GENERIC FORM** means electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability that is not prescribed by

a particular municipal corporation for the reporting of that municipal corporation's tax on income.

**GROSS RECEIPTS** means the total revenue from sales, work done, or services rendered before any deductions, exceptions or credit claims.

**INCOME** Shall include all monies derived from any source whatsoever, including but not limited to:

- a. All qualifying wages, commissions, other compensations and other income from whatever source received by the residents of Covington, or activities conducted in Covington.
- b. All qualifying wages commission, other compensation and other income from whatsoever source received by the nonresidents for work done or services performed of rendered or activities conducted in Covington.
- c. The portions attributable to the city of the net profit of all unincorporated businesses, associations, professions, corporations or other entities from sales made, work done, services performed or rendered, and business or other activities conducted in Covington.

**INCOME FROM A PASS-THROUGH ENTITY** means a partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.

**INTANGIBLE INCOME** means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.

**INTERNAL REVENUE CODE** means the Internal Revenue Code of 1986, 100stat, 2085, 26 U.S.C.1, as amended.

**JOINT ECONOMIC DEVELOPMENT DISTRICT** means districts created under the Ohio Revised Code sections 715.70 through 715.83, as amended from time to time.

**LIMITED LIABILITY COMPANY** means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

**MUNICIPALITY** means the Village of Covington

**NET PROFITS** means a net gain from the operation of a business, profession, enterprise, or other activity after provision for all ordinary and necessary expenses either paid or accrued

in accordance with the accounting system used by the taxpayer for federal income tax purposes, without deduction of taxes imposed by this Ordinance, federal, state, and other taxes based on income; and in the case of an association, without deduction of qualifying wages paid to partners and other owners; and otherwise adjusted to the requirements of this Ordinance.

**NON-QUALIFIED DEFERRED COMPENSATION PLAN** means a compensation plan described in section 3121 (v) (2) ( C ) of the Internal Revenue Code.

**NON-RESIDENT** means an individual domiciled outside the Village of Covington

**NON-RESIDENT UNINCORPORATED BUSINESS ENTITY** means one not having an office or place of business within the Village of Covington

**THE OHIO BUSINESS GATEWAY** means centralized electronic filing and payment system maintained by the State of Ohio.

**THIS ORDINANCE** means Ordinance No. 09-76, enacted by the Council of Covington and any amendments and supplements thereto effective January 1, 1975 thru December 31, 2010, and Ordinance No. after January 1, 2011 (NOTE: Hereinafter this will be referred to as “effective period of ordinance.”)

**OTHER PAYER** means any person that pays an individual any item included in the taxable income of the individual, other than the individual’s employer or that employer’s agent.

**OWNER** means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.

**OWNER’S PROPORTIONATE SHARE** with respect to each owner of a pass-through entity means the ratio of (a) the owner’s income from the pass-through entity that is subject to taxation by the municipal corporation, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.

**PASS-THROUGH ENTITY** means a partnership, S corporation, limited liability company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

**PERSON** includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.

**PLACE OF BUSINESS** means any bona fide office (other than a mere statutory office), factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.



**PRINCIPAL PLACE OF BUSINESS** means in the case of an employer having headquarters' activities at a place of business within a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters' activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.

**QUALIFIED PLAN** means a retirement plan satisfying the requirements under section 401 of the Internal Revenue Code as amended.

**QUALIFYING WAGES** means wages, as defined in section 3121 (a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with section 718.03(A) of the Ohio Revised Code.

**RESIDENT** means an individual domiciled in the Village of Covington.

**RESIDENT UNINCORPORATED BUSINESS ENTITY** means an unincorporated business entity having an office or place of business within the Village of Covington

**RULES AND REGULATIONS** means the Rules and Regulations as set forth in this Ordinance.

**RETURN PREPARER** means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.

**SCHEDULE C** means the Internal Revenue Schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

**SCHEDULE E** means the Internal Revenue Schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

**SCHEDULE 4835** means the Internal Revenue Schedule 4838 filed by a taxpayer pursuant to the Internal Revenue Code.

**SCHEDULE F** means the Internal Revenue Schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

**S CORPORATION** means a corporation that has made an election under sub chapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

**TAX ADMINISTRATOR** means the person appointed to administer the Municipality's Income Tax Ordinance and to enforce the provisions of this Ordinance.

**TAXABLE INCOME** means qualifying wages and other compensation paid by an employer or employers before any deductions of any kind, and/or the net profits from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the

provisions of this Ordinance and these regulations.

**TAXABLE YEAR** means the calendar year or the fiscal year upon the basis of which net profits are to be computed under this Ordinance, and in the case of a return for a fractional part of a year, the period for which such return is required to be made.

**TAXING MUNICIPALITY** means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.

**TAXPAYER** means an individual, association, corporation or other entity required by this Ordinance to file a return and/or to pay a tax.

**COVINGTON** means the Village of Covington, Ohio.

**VILLAGE** means the Village of Covington, Ohio.

The singular shall include the plural, and the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates.

### **SECTION 3. IMPOSITION OF TAX**

A. Annual Tax. An annual tax for the purposes specified in Section 1 shall be and is hereby levied on and after July 1, 1976 thru December 31, 1994 at the rate of one percent per annum; after January 1, 1995 at the rate of one and one-half percent per annum, upon the following:

1. On all qualifying wages, commissions, other compensation, and other taxable income earned or received by residents of this Municipality;
2. On all qualifying wages, commissions, other compensation, and other taxable income earned or received by nonresidents for work done, or services performed or rendered, in this Municipality;
3. On the portion attributable to this Municipality of the net profits earned by all resident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered, and business or other activities conducted in this Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a resident unincorporated business entity or pass-through entity not attributable to this Municipality and not levied against such unincorporated business entity or pass-through entity.
4. On the portion attributable to this Municipality on the net profits by all nonresident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in this Municipality, whether or not such unincorporated business entity has

an office or place of business in this Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a nonresident unincorporated business entity or pass-through entity no attributable to this Municipality and not levied against such unincorporated business entity or pass-through entity.

5. On the portion attributable to this Municipality, of the net profits earned by all corporations that are not pass-through entities from work done or services performed or rendered and business or other activities conducted in this Municipality, whether or not such corporations have an office or place of business in this Municipality.

6. On all income received as gambling winnings as reported on IRS form W-2G, Form 5754 and or any other form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings. GAMBLING LOSSES ARE NOT DEDUCTABLE.

B. Businesses Both In and Outside the Municipal Boundaries. This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745, of the Ohio Revised Code. Except as otherwise provided in division (D) of this section, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:

1. Multiply the entire net profits of the business by a business apportionment percentage to be determined by:

a. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

b. Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are corporation under section 718.011 of the Ohio Revised Code;

c. Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

d. Adding together the percentages determined in accordance with subsections B.1.a.b. and c. hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total.

1. A factor is applicable even though it may be apportioned entirely in or outside this Municipality.
2. Provided however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Tax Administrator upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

C. As used in division (B) of this section, “sales made in a municipal corporation” mean:

1. All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;
2. All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion;
3. All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

D. Except as otherwise provided in division (E) of this section, net profit from rental activity not constituting a business or profession shall be subject to tax only by the municipal corporation in which the property generating the net profit is located.

E. This section does not apply to individuals who are residents of this Municipality and, except as otherwise provided in section 718.01 of the Ohio Revised Code, this Municipality may impose a tax on all income earned by residents of this Municipality to the extent allowed by the United States Constitution.

F. Net Operating Loss (NOL)

1. The portion of a net operating loss sustained in any taxable year subsequent to July 1, 1976 thru December 31, 2010, allocable to Covington may be applied against the portion of the profit of succeeding year (s) apportioned to this Municipality until exhausted but in no event for more than five (5) years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back

against net profits of any prior year.

The portion of a net operating loss sustained in any taxable year subsequent to January 1, 2005, allocable to Covington may be applied against the portion of the profit of succeeding year (s) apportioned to this Municipality until exhausted but in no event for more than three (3) years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

2. The portion of a net operating loss sustained shall be apportioned to this Municipality in the same manner as provided herein for apportioning net profits to this Municipality.
3. The Tax Administrator shall provide by Rules and Regulations the manner in which such net operating loss carry-forward shall be determined.
4. The net operating loss of a taxpayer that loses its legal identity, by any means such as merger or consolidation, shall not be allowed as a carry forward loss deduction to the surviving or new taxpayer.
5. The net operating loss sustained by a business or profession is not deductible from employee earnings. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss reportable for municipal income tax purposes to another municipality) may be used to offset the profits of another for purposes of arriving at overall net profits.

#### G. Consolidated Returns

1. A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for Federal Income Tax purposes pursuant to section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.
2. Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless the applicable requirements of the Rules and Regulations for discontinuing the filing of consolidated returns have been met.

#### H. Exclusions. The tax provided herein shall not be levied upon:

1. Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.
2. Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injuries and like reimbursements, not including damages for loss of profits and wages.

3. Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges, and similar organizations.
4. Gains from involuntary conversion, cancellation of indebtedness, interest of Federal obligations and income of a decedent's estate during the period of administration (except income from the operation of a business).
5. Alimony.
6. Compensation for damage to property by way of insurance or otherwise.
7. Interest and dividends from intangible property.
8. Active Duty Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC 718.01).
9. Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio Revised Code 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
10. Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.
11. In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of this Municipality, it shall calculate its income apportioned to this Municipality under the method or methods provided above.
12. If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipal income tax.
13. The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to section 107 of the Internal Revenue Code.
14. Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars annually. Such compensation in excess of one thousand

dollars may be subjected to taxation. The payer of such compensation is not required to withhold village tax from that compensation.

15. This Municipality shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in this Municipality for personal services performed by the individual in this Municipality on twelve (12) or fewer days in a calendar year unless one of the following applies:
  - a. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.
  - b. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by this Municipality.
16. The income of a public utility, when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745. of the Ohio Revised Code:
  - a. The income of an electric company or combined company;
  - b. The income of a telephone company.

As used in division (F) (17) of this section, "combined company", "electric company", and "telephone company" have the same meanings as in section 5727.01 of the Ohio Revised Code.
17. An S corporation shareholder's distributive share of net profits or losses of the S corporation.
18. Child Support.
19. No resident taxpayer shall be required to pay Covington Village Income Tax or file a Covington Income Tax Return who is not 18 years of age at the end of the tax year.
20. No resident taxpayer shall be required to file a return who is retired and is no longer expected to have income taxable to the Village of Covington.  
**THIS RESIDENT MUST REGISTER WITH THE TAX ADMINISTRATOR AS BEING RETIRED.**

21. Form 2106 expenses are subject to 2% of the Federal Adjusted Gross Income. Form 2106 expenses must be claimed on only Covington withheld wages. Form 2106 & Schedule A must be submitted to take the deduction ½ of the Self employment tax and medical insurance paid are NOT deductible.

22. Generally the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

#### I. Mandatory Registration

1. Each new resident of the Village of Covington shall register with the Village Income Tax Department within thirty (30) days of residency in the Village.
2. All employers, contractors or subcontractors who do work in the Village shall register with the Tax Administrator before the work begins and shall present him/her with a list of all employees, subcontractors or others who may do work for them that are not already registered with the Village or whose profits, wages or earnings are not presently subject to withholding of the Village of Covington Income Tax.
3. On January 1, 2011 and each year thereafter, all landlords who rent property or dwellings in the Village of Covington must submit an up-to-date list of their tenants to the Tax Administrator. This list should be updated within thirty (30) days after a tenant vacates or a new tenant occupies an apartment, room or other rental property located within this Municipality. This list is not required if the tenants are responsible for their own water and/or electric utility payments.
4. Any person who violates this section shall be subject to the provision of Section 12, paragraph A, line 8 of the Village of Covington Income Tax Ordinance.

#### **SECTION 4. EFFECTIVE PERIOD OF TAX**

Said tax shall be levied, collected, and paid with respect to salaries, qualifying wages, commissions and other compensation earned or received and shall be levied with respect to the net profits of businesses, professional or other activities earned on and after July 1, 1976.

#### **SECTION 5 RETURN AND PAYMENT OF TAX**

- A. Each resident of the Village of Covington, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 15 of the year following the effective date of this Ordinance, and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the



return shall be filed on or before the fifteenth (15) day of the fourth month from the end of such fiscal year or period. The Tax Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of Village tax deducted by said employer or employers from the qualifying wages, salaries, bonus payments, commissions, other compensation, and other taxable income of a non-resident employee, and paid by him or them to the Tax Administrator, shall be accepted as the return required of a non-resident employee whose sole income subject to tax under this Ordinance, is such qualifying wages, salaries, bonus payments, commissions or other compensation and other taxable income. No resident taxpayer shall be required to file a return who is not 18 years of age at the end of the tax year. The Tax Administrator is hereby authorized to provide by regulation, relief from the annual filing requirement to certain retired individuals who no longer are expected to have income taxable to the Village. These residents must register with the Tax Administrator as being retired.

- B. A husband and wife may file either separate returns or a joint return for municipal purposes, even though one of the spouses has neither taxable income nor deductions included on the municipal return regardless of whether their federal and state returns were filed jointly. If a joint village return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several
- C. The tax return shall be filed with the Tax Administrator on a form or forms furnished by or obtainable upon request from the Tax Administrator; or a generic form, if the generic form, when completed and filed contains all information is required to be submitted with this. Municipality's prescribed return and, if the taxpayer or return preparer filing the generic form otherwise complies with this Ordinance governing the filing of returns.
- D. The return shall set forth:
1. The aggregate of qualifying wages, commissions, other compensation received, allocated, apportion or set aside, other income defined by statute as taxable gross income from any business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said tax; and
  2. The amount of the tax imposed by this Ordinance on such earnings and profits; and
  3. Such other pertinent statements, information returns, copies of federal or state tax returns and/or schedules, or other information as the Tax Administrator may require, including a statement that the figures used in the return are the figures used for federal income tax adjusted to set forth only such income as is taxable under the provisions of this Section.

E. Extensions

1. Any taxpayer that has requested an extension for filing a federal income tax return may

request an extension for the filing of a Municipal Income Tax Return by filing a copy of the taxpayers federal extension request with this Municipal Tax Department. Any taxpayer not required to file a federal income tax return may request an extension for filing a Municipal Income Tax Return in writing. The request for an extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the Municipal Income Tax Return shall be the last day of the month following the month to which the due date of the federal income tax return has been extended.

## **FEDERAL EXTENSIONS MUST BE SUBMITTED TO LOCAL TAX OFFICE.**

2. The Tax Administrator may deny a taxpayer's request for extension if the taxpayer:
  - a. fails to timely file the request; or
  - b. fails to file a copy of the federal extension request, or
  - c. owes this Municipality any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of income tax; or
  - d. has failed to file any required income tax return, report, or other related document for a prior tax period.
3. The granting of an extension for filing a Municipal tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by section 10. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of this Ordinance have been met. Any extension by the Tax Administrator shall be granted upon the condition that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then become evident that declaration and filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extensions has been granted.

## **F. Payments with Returns.**

1. The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Administrator the amount of taxes shown as due. However, credit shall be allowed for:
  - a. Any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 6; and
  - b. Any portion of said tax which shall have been paid by the taxpayer pursuant to the provisions of Section 7; and
  - c. Credit to the extent allowed by Section 15 for tax paid to another municipality.

2. Subject to the limitations contained in Section 11 of this ordinance, any taxpayer who has overpaid the amount of tax to which the Village of Covington is entitled under the provisions of this Ordinance may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded; provided that no additional taxes or refunds of less than five dollars (\$5.00) shall be collected or refunded.

G. Amended Returns.

1. Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid subject to the requirements and/or limitations contained in Section 11 and 12. Such amended return shall be on a form obtainable on request from the Tax Administrator. A taxpayer may not may not change the method of accounting or apportionment of the net profits after the due date for filing the original return.
2. Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's Covington tax liability, such taxpayer shall make and file an amended Covington return showing income subject to the Covington tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon, or make claim for refund of any overpayment.
3. The mere submission of filing a return shall not constitute filing unless accompanied by the required payment.

- H. Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of this Ordinance. Provided, however, that the taxpayer shall have ten (10) days after notification by the Tax Administrator, or his authorized representative, to file the items required by this paragraph.

## **SECTION 6      COLLECTION OF TAX AT THE SOURCE**

A. Each employer within, or doing business within, this Municipality who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, when such salary, wage, commission, or other compensation is paid, allocated, apportioned or set aside, the tax of one and one-half percent hereof on the qualifying wages due by such employer to such employee and shall, on or before the fifteen (15<sup>th</sup>) day of the month following such withholding, make a return and pay to the Tax Administrator the amount of taxes so deducted. The return shall be on a form or forms prescribed by or acceptable to the Tax Administrator and shall be subject to the Rules and Regulations prescribed by the Tax Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have infact been withheld.

- B. An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.
- C. The failure of an employer to remit to the municipal corporation the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.
- D. Employers shall pay to the Village Covington all income taxes withheld or required to be Deducted and withheld on either a monthly or quarterly basis depending on the amount of taxes involved according to the a payment schedule:
- E. Employer Considered as Trustee. Each employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to this Municipality, as a trustee for the benefit of this Municipality, and any such tax collected by such employer from his employees shall, until the same is paid to this Municipality, be deemed a trust fund in the hands of such employer. Each employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax, in fact, has been withheld.
- F. Any person who is required to withhold tax from qualifying wages shall pay all such tax to this Municipality in accordance with the provisions of this section. In the event taxes withheld from the qualifying wages of employees are not paid to this Municipality in accordance with the provisions of this section, all officers, members, managers, employees, and trustees having control or supervision of or charged with the responsibility of filing the return and making payments are jointly and severally personally liable for the tax not returned or paid to this Municipality as well as any related interest and penalties, and are also liable under the provisions of section 12 hereof. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.
- G. Withholding Return; List of Employees. Each employer shall file a withholding tax reconciliation showing the sum total of all compensation paid all employees, the portion of which, (if any) was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the municipal tax was withheld, showing the name, address, zip code, and social security number of each such employee, the total amount of compensation paid during the year and the amount of municipal tax withheld. If the total tax withheld from any employee included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to this Municipality concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before February 28

following the end of such calendar year.

H. In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed shall also report such payments to this Municipality when the services were performed in this Municipality. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the total amount of the payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year.

I. Domestic Servants. No person shall be required to withhold the tax on the qualifying wages, commissions, other compensation, and other taxable income paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.

## **SECTION 7. DECLARATIONS**

A. A declaration of estimated tax shall be filed by every taxpayer who may reasonably be expected to have taxable income; the tax on which is not or will not be withheld by an employer or employers.

1. A taxpayer's final return for the preceding year may be used as the basis for computing his declaration of estimated tax for the current year. In the event a taxpayer has not previously been required to file a return, a declaration of estimated tax on anticipated income shall be filed in good faith.

2. A declaration payment is not necessary if the estimated tax liability is less than \$100.00.

B. Dates for Filing.

1. Such declaration shall be filed on or before April 15 of each year during the life of this Ordinance, or on or before the fifteenth (15) day of the fourth (4) month following the date the taxpayer becomes subject to tax for the first time.

2. Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration on or before the fifteenth (15) day of the fourth (4) month following the start of each fiscal year or period.

C. Forms; Credit for Tax Withheld or Paid to Another Municipality.

1. Such declaration shall be filed upon a form or forms furnished by, or obtainable from, the Tax Administrator; or an acceptable generic form, and credit shall be taken for this Municipality's income tax to be withheld from any portion of such income. In accordance with the provisions of Section 15 of this Ordinance, credit may be taken for

tax to be paid or withheld and remitted to another taxing municipality.

2. The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment due date and provided for herein.

#### D. Dates of Payment.

1. For taxpayers who are individuals, the estimated tax may be paid in full with the declaration or in installments on or before the fifteenth (15<sup>th</sup>) day of the fourth, and the last day of the sixth, ninth, and thirteenth months after the beginning of the taxable year.

2. For taxpayers that are not individuals, such declaration of estimated tax to be paid to this Municipality may be paid in full with the declaration or in installments on or before the fifteenth (15<sup>th</sup>) day of the fourth, sixth, ninth, and thirteenth months after the beginning of the taxable year.

3. Not more than twenty-five and one half per cent of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on the fifteenth (15<sup>th</sup>) day of April or the day on which the annual tax return for the prior year is required to be filed, disregarding any extension.

4. Not more than fifty per cent of the taxpayer's estimated tax liability for the current year shall be required to have been remitted for the second quarter declaration payment.

5. Not more than seventy-five and one-half per cent of the taxpayer's estimated tax liability for the current year shall be required to have been remitted for the third quarter declaration payment.

6. Not more than hundred per cent of the taxpayer's estimated tax liability for the current year shall be required to have been remitted for the fourth quarter declaration payment.

7. In the event an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments over the remaining payment dates.

8. The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

#### E. Amended Declarations.

1. A declaration may be amended at any time.

2. In the event that an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

#### F. Annual Return Required.

1. The filing of a declaration does not relieve the taxpayer of the necessity of filing a final return even though there is no change in the declared tax liability. A final return must be filed to obtain a refund of any overpayment of over five dollars (\$5.00).

### **SECTION 8. DUTIES OF THE TAX ADMINISTRATOR**

#### A. Collection of Tax and Retention of Records.

1. It shall be the duty of the Tax Administrator to collect and receive the tax imposed by this Ordinance in the manner prescribed therein from the taxpayers; to keep an accurate record thereof, and to report all monies so received.
2. It shall be the duty of the Tax Administrator to enforce payment of all income taxes owing this Municipality, to keep accurate records for a minimum of six (6) years showing the amount due from each taxpayer required to file a declaration, and or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

#### B. Enforcement Provisions.

1. The Tax Administrator is charged with the administration and enforcement of the provisions of this Ordinance, including the interpretation and enforcement of the Rules and Regulations, and is hereby empowered, subject to the approval of the Village Council, to adopt and promulgate and to enforce the Rules and Regulations relating to any matter or things pertaining to the collection of taxes and the administration and enforcement of the provisions of this Ordinance, including provisions for the reexamination and corrections of returns. The Tax Administrator has the authority to correct or adjust any return submitted, when a correction or adjustment is necessary, to accomplish the intent of this Ordinance.
2. Any taxpayer or employer desiring a special ruling on any matter pertaining to this Ordinance or these Rules and Regulations, should submit, to the Tax Administrator in writing, all the facts involved and the ruling sought.
3. These Regulations, together with all amendments and supplements hereto and all changed herein, will be on file at the office of the Tax Administrator, Covington, Ohio, and will be open to public inspection.
4. The Tax Administrator is authorized to arrange for the payment of unpaid taxes, interest, and penalties on a schedule of installment payments, when the taxpayer has proved to the Tax Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until the proper

returns are filed by the taxpayer for all amounts owed by him under this Ordinance.

5. Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand, and the provisions of Sections 10, 11 and 12 of this Ordinance shall apply.

C. Estimation of Tax by the Tax Administrator.

1. Whenever the Tax Administrator has been unable to secure information from the taxpayer as to his taxable income for any year, she may determine the amount of tax appearing to be due and assess the taxpayer upon the basis of such determination, together with the interest and penalties, as prescribed in Section 10 of this Ordinance.

2. Such determination of tax may be adjusted upon submission by the taxpayer of actual records from which his tax may be computed.

D. Subject to the consent of the majority of the Board of Review, the Tax Administrator shall have the power to compromise liability imposed by this Ordinance.

E. Upon the demonstration and documentation of good cause, the Tax Administrator shall have the power to compromise penalty and interest liability imposed by this section, consistent with this section and the rules and regulations

**SECTION 9. INVESTIGATIVE POWERS OF THE ADMINISTRATOR;  
PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.**

A. Investigations by the Tax Administrator.

1. The Tax Administrator, or any authorized employee, is authorized to examine the books, papers, records, and federal income tax returns of any employer, taxpayer, or person subject to, or whom the Tax Administrator believes is subject to the provisions of this Ordinance, for the purpose of verifying the accuracy of any return made; or if no return was made, to ascertain the tax due under this Ordinance.

2. An employer or taxpayer shall furnish, within ten (10) days following a written request by the Tax Administrator or her duly authorized agent, the means, facilities, and opportunity for making examinations and investigations authorized by this Ordinance.

B. Subpoena of Records and Persons.

1. The Tax Administrator or any person acting in her capacity, is authorized to examine any person, under oath, concerning any income which was or should have been returned



for taxation or any transaction tending to affect such income. The Tax Administrator may compel the production of books, papers, and records, and the attendance of all persons before her, whether as parties or witnesses, whenever she believes such persons have knowledge of the facts concerning any supposed income or supposed transactions of the taxpayer.

2. The Tax Administrator's order to examine any document mentioned in the preceding paragraph shall state whether the examination is to be at the office of the taxpayer or at the office of the Tax Administrator.

3. The Tax Administrator may order the appearance before her, or her duly authorized agent, of any party whom she believes to have any knowledge of a taxpayer's income or withholdings, or any information pertaining to the taxpayer under investigation, whether or not the individual so ordered has actual custody of the records of the taxpayer being investigated. The Tax Administrator is specifically authorized to order the appearance of the local manager or representative of any taxpayer.

4. Persons required to attend any hearings shall be notified not less than ten (10) days prior to the time of the hearing. The notice shall show the time and place of the hearing and what books, papers, or records the witness is to make available at such hearing.

5. The notice shall be served by the Tax Administrator, or her duly authorized agent, by delivering it to the person named personally, or by leaving the notice at his usual place of business or residence, or by mailing it to the person by registered mail, return receipt requested, addressed to his usual place of business or residence.

#### C. Penalty for Non-Compliance.

Refusal by any employer, supposed employer, taxpayer, or supposed taxpayer, or the refusal of any such person to appear before the Tax Administrator, or her duly authorized agent, to submit to such examination and to produce the records requested, constitutes a misdemeanor punishable by fine or imprisonment, or both, as prescribed by Section 12 of this Ordinance.

#### D. Confidential Nature of Examinations.

Any information gained as a result of any returns, investigations, verifications, or hearings before the Tax Administrator or the Board, required by this Ordinance or authorized by these Rules and Regulations, shall be confidential, and no disclosure thereof shall be made, except for official purposes, or as ordered by a court of a competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of five hundred dollars (\$500.00) or imprisonment for not more than six (6) months, or both.

In addition to the above penalty, any employee of Covington who violates the provisions of this section relative to this disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

#### E. Retention of Records.

All employers and taxpayers are required to keep such records as will enable the filing of true and accurate returns, whether taxes withheld at the source, of taxes payable upon earnings or net profits, or both. Such records shall be preserved for a period of not less than six (6) years from the date the final return is filed and paid, or the withholding taxes are paid.

### **SECTION 10. INTEREST AND PENALTIES**

#### A. Interest.

1. All taxes imposed and all monies withheld, or required to be withheld, by employers under the provisions of this Ordinance and remaining unpaid after they become due, shall bear interest, in addition to the amount of the unpaid tax or withholdings, at the rate of one percent (1%) per month or fraction thereof.

#### B. Penalties.

In addition to interest, as provided in paragraph A hereof, penalties based on the unpaid tax due, or a failure to file an income tax return when due, regardless of the amount, if any of the unpaid tax due, are hereby imposed as follows:

1. For failure to pay taxes due, other than taxes withheld, two percent (2%) per month or fraction thereof.

2. For failure to remit taxes withheld from employees:

a. Five percent (5%) per month, or fraction thereof

b. A penalty shall be imposed on employers who are required to remit withheld taxes by electronic transfer and who fail to make such remittance by means of electronic transfer, as required under Section 1713.02 (j) and (k), or who fail to adhere to the approved addenda format for electronic transfers, in the amount of ten percent (10%) of the sum which the employer was required to remit by electronic transfer.

3. Any person required to file a return as set forth in this Ordinance or who fails to make the payment as set forth herein, shall pay a penalty of TWENTY-FIVE DOLLARS (\$25.00) if return and/or payment is filed and paid no more than thirty

(30) days past its due date. In the event the return and/or payment is filed or paid more than thirty (30) days past its due date, said person shall pay a additional penalty of TWENTY-FIVE DOLLARS (\$25.00) per month until filed. It shall be no defense in the payment of such penalty that no tax shall be due to be paid to the Village, or that a refund is due to be paid to the taxpayer, as the result of the filing of such return.

#### C. Exceptions.

1. No penalty shall be assessed on additional taxes found on audit to be due when a return was timely filed in good faith and the tax paid thereon within the prescribed time.
2. In the absence of fraud, neither penalty nor interest shall be assessed on any additional taxes resulting from a federal audit for federal income tax purposes; provided an amended return is filed and the additional tax is paid within three (3) months after final determination of the federal tax liability.

#### D. Appeal from Assessment.

1. Upon recommendation of the Tax Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Tax Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both.

### **SECTION 11. COLLECTION OF UNPAID TAXES & REFUNDS OF OVERPAYMENTS**

#### A. Unpaid Sums - A Civil Debt.

1. All taxes imposed by the Ordinance shall be collectable, together with interest and penalties therein, a debt due the Village from the taxpayer and are recoverable as are other debts by civil suit. Employers who are required, under Section 6 of this Ordinance, to withhold and remit the taxes required to be withheld at the source, and who fail to withhold and/or remit, become liable to the Village in a civil action to enforce the payment of the debt created by such failure.
2. No additional assessment shall be made by the Tax Administrator after three (3) years from the time the return was due or filed, whichever is later; provided, however, there shall be no period of limitation on such additional assessments in the case of a return that omits a substantial portion of income, or filing a false or fraudulent return to evade payment of the tax or failure to file a return. Failure to report 25% or more of gross income shall be considered a substantial omission.

3. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an assessment may be made by the Tax Administrator is extended to three (3) years from the time of final determination of federal tax liability.

#### B. Refunds and Overpayments.

1. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made, or the return was due, or three (3) months after the determination of the federal income tax liability, whichever is later.

2. No refund shall be made to any taxpayer until he has complied with all provisions of this Ordinance and has furnished all information required by the Tax Administrator.

3. Overpayments will be either refunded or credited to the taxpayer's current year's liability at his option. Where no election has been made by the taxpayer, overpayments of any year's taxes shall be applied as follows:

a. To taxes owed for any previous years in which such taxes become due.

b. To his current estimated tax liability.

#### C. Limitation.

1. Where the total amount due or refund claimed for a tax year is less than five dollars (\$5.00), such amount shall not be collected, refunded, or credited to the taxpayer's account.

2. Overpayments due to rounding will not be credited or refunded.

3. An adjustment to a tax return by the Tax Administrator, after the return has been filed in good faith by the taxpayer, will not be made by the Tax Administrator if the result of the adjustment is equal to or less than five dollars (\$5.00) as an underpayment or an overpayment of tax.

D. Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment, with the following exception: No interest shall be allowed on any overpayment that is refunded within ninety (90) days after the final filing date of the annual return or ninety (90) days after the complete return is filed, whichever is later. For the purposes of computing the interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due the rate of interest prescribed by Ohio R.C. 5703.47.

## **SECTION 12. VIOLATIONS AND PENALTIES**

### **A. Any Person Who Shall:**

1. Fail, neglect, or refuse to make any return or declaration required by this Ordinance; or
2. Make any incomplete, false, or fraudulent return; or
3. Willfully fail, neglect, or refuse to pay the tax, penalties or interest imposed by this Ordinance; or
4. Willfully fail, neglect, or refuse to withhold the tax from his employees or remit such withholding to the Tax Administrator; or
5. Refuse to permit the Tax Administrator, or any duly authorized agent or employee, to examine his books, records, papers, and federal income tax returns relating to the income or net profits of a taxpayer; or
6. Fail to appear before the Tax Administrator and to produce his books, records, papers, or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
7. Refuse to disclose to the Tax Administrator any information with respect to the income or net profits of a taxpayer; or
8. Fail to comply with the provisions of this Ordinance or any order to subpoena of the Tax Administrator authorized hereby; or
9. Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
10. Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid, and Covington tax withheld, or to knowingly give the Tax Administrator false information; or
11. Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Ordinance; for which violation no penalty is otherwise provided, is guilty of a misdemeanor and shall be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned not more than six (6) months, or both, for each offense.
12. In addition to the foregoing, the penalties referred to in Section 10 of the Covington Income Tax Ordinance shall be assessed and collected.

B. Prosecutions:

Prosecutions under this Ordinance must be commenced within three (3) years from the time of the offense except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be six (6) years from the date the return was due or the date the false or fraudulent return was filed.

C. Failure to Receive Forms - Not a Defense.

The failure of any employer, taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, declaration or return, from filing such form, or from paying the tax.

- D. The term “person” as used in this section shall, in addition to the meaning prescribed in Section 2 , include in the case of an association or corporation not having any partner, member or officer within this Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of this Municipality.

## **SECTION 13. BOARD OF REVIEW**

A. Composition.

A Board of Review, consisting of a chairman and two other individuals to be appointed by the Mayor of Covington and confirmed by the Village Council, is hereby created and shall be maintained to hear appeals. The members of the Board of Review shall be appointed for a term of three (3) years. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately, and the provisions of Section 9 hereof, with reference to the confidential character of information required to be disclosed by this Ordinance, shall apply to such matters as may be heard before the Board on appeal. Hearings requested by a taxpayer before a Board of Review are not meetings of a public body subject to Section 121.22 of the ORC.

B. Duties.

The Board shall hear and pass on appeals from any ruling or decision of the Tax Administrator, and at the request of the taxpayer or Tax Administrator, is empowered to substitute alternate methods of allocation.

C. Appeals.

1. An appeal from a ruling of the Tax Administrator by a taxpayer or employer is effected by filing a notice of appeal with the Board within thirty (30) days after the announcement of the Tax Administrator's ruling or decision from which the appeal is taken. A copy of such notice of appeal must be filed with the Tax Administrator.
2. The Board, by a majority vote, may affirm, modify, or reverse, in whole or in part, any such ruling or decision by the Tax Administrator.
3. Hearings before the Board shall be private, unless the taxpayer requests a public hearing.
4. The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive a hearing, the taxpayer may be represented by an attorney at law, certified public accountant, or other representative.
5. The Board may affirm, reverse, or modify the Tax Administrator's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen (15) days after issuing the decision. The taxpayer or the Tax Administrator may appeal the board's decision as provided in section 5717.011 of the Ohio Revised Code.
6. The Board of Review, created pursuant to this section, shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Review created pursuant to this section are not meetings of the public body subject to Section 121.22 of the Ohio Revised Code.
7. The imposition of penalty and interest as prescribed by the Codified Ordinances of this Municipality is not a sole basis for an appeal.

#### **SECTION 14. ALLOCATION OF FUNDS**

- A. For the costs and expenses of the collection of taxes levied by this ordinance and the cost of administering and enforcing provisions hereof, such part of funds may be necessary.
- B. 20% to be designated for the streets, alleys, and added street maintenance equipment.

#### **SECTION 15. CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY**

A. Where a resident of Covington is subject to a municipal tax in another municipality he shall not pay a total municipal tax on the same income greater than the tax imposed at the higher rate.

B. Every individual taxpayer who resides in this Municipality who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside this Municipality, if it appears that he has paid a municipal income tax on the same income taxable under this Ordinance to another municipality, shall be allowed credit against the tax imposed by this Ordinance of the amount so paid him or in his behalf to such other municipality. The credit shall not exceed the tax assessed by this Ordinance on such income earned in such other municipalities where such tax is paid.

C. Except as provided in division (D) of this Section, if tax or withholding is paid to a municipal corporation on income or wages, and if a second municipal corporation imposes a tax on that income or wages after the time period allowed for a refund of the tax or withholding paid to the first municipal corporation, the second municipal corporation shall allow a non refundable credit, against the tax or withholding the second municipality claims is due with respect to such income or wages, equal to the tax or withholding paid to the first corporation with respect to such income or wages.

D. If the tax rate in the second municipal corporation is less than the tax rate in the first municipal corporation, then the credit described in division C of this Section shall be calculated using the tax rate in effect in the second municipal corporation.

E. A claim for refund or credit under this Section shall be made in such a manner as the Tax Administrator may by regulation provide.

## **SECTION 16. REQUIREMENTS FOR JOINT ECONOMIC DEVELOPMENT DISTRICTS**

Specific provision of this Ordinance may be modified as they apply to Joint Economic Development Districts if the modifications are passed by Council in an ordinance which either specifically approves a Joint Economic Development District contract or specifically amends this Ordinance.

## **SECTION 17. SAVING CLAUSE**

If any sentence, clause, section, or part of this Ordinance, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section, or part of this Ordinance and shall not affect or impair any of the remaining provisions, sentences clauses, sections, or other parts of this Ordinance. It is hereby declared to be the intention of the Council of this Municipality that this



Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

#### **SECTION 18. COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE**

A. This Ordinance shall continue effective insofar as the levy of taxes is concerned until repealed,  
and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this Ordinance are concerned, it shall continue effective until all of said taxes levied hereunder are fully paid and any and all suits and prosecution for the collection of said taxes or for the punishment of violations of this Ordinance shall have been fully terminated, subject to the limitations contained in Section 11 and 12 hereof.

B. Annual returns due for all or any part of the last effective year of this Ordinance shall be due on the date provided in Sections 5 and 6 of this Ordinance as though the same were continuing.

#### **SECTION 19. AMENDMENTS & SUPPLEMENTS**

A. From time-to-time, amendments and supplements to these regulations may be issued by the Tax Administrator, and approved by the Village Council.